

## Update: Domestic Violence Benchbook (3rd ed)

### CHAPTER 12

#### Domestic Violence and Access to Children

##### 12.5 Modifying Michigan Custody Determinations

###### A. Standard for Modification

Effective December 28, 2005, 2005 PA 328 amended MCL 722.27(1)(c), precluding a change of custody when a parent is on active military duty. At the top of page 502, replace the quotation of MCL 722.27(1)(c) with the following:

“(c) Modify or amend its previous judgments or orders for proper cause shown or because of change of circumstances until the child reaches 18 years of age and, subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b,\* until the child reaches 19 years and 6 months of age. The court shall not modify or amend its previous judgments or orders or issue a new order so as to change the established custodial environment of a child unless there is presented clear and convincing evidence that it is in the best interest of the child. The custodial environment of a child is established if over an appreciable time the child naturally looks to the custodian in that environment for guidance, discipline, the necessities of life, and parental comfort. The age of the child, the physical environment, and the inclination of the custodian and the child as to permanency of the relationship shall also be considered. If a motion for change of custody is filed during the time a parent is in active military duty, the court shall not enter an order modifying or amending a previous judgment or order, or issue a new order, that changes the child’s placement that existed on the date the parent was called to active military duty, except the court may enter a temporary custody order

\*The referenced statute addresses post-majority child support.

if there is clear and convincing evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the custody order in effect immediately preceding that period of active military duty. If a motion for change of custody is filed after a parent returns from active military duty, the court shall not consider a parent's absence due to that military duty in the best interest of the child determination."

**Note:** Effective December 28, 2005, 2005 PA 327 amended MCL 722.22 to define "active military duty" to be "when a reserve unit member or national guard unit member is called into active military duty." MCL 722.22(a).